IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.614 of 2007.

Date of decision: 30.8.2007.

State of H.P. .....Petitioner

Vs.

Charanjit Singh and another .... Respondents.

Coram

The Hon'ble Mr. Justice Kuldip Singh, Judge.

Whether approved for reporting?[1] No

For the Appellant : Mr. M.L. Chauhan, Additional Advocate General.

For the Respondents : None.

***Kuldip Singh, Judge*.(Oral)**

This petition has been filed for seeking leave to file appeal against the judgment of acquittal dated 9.4.2007 passed by learned Chief Judicial Magistrate, Una in Police Challan No.22-II-2000 under Sections 279, 336, 337 and 338 IPC.

2. The facts in brief are that on 11.11.1999 at about 2.20 P.M. Charanjit Singh was driving bus No.HP-19-1453 and Raj Kumar was the conductor on that bus. It has been alleged that Charanjit Singh was driving the bus in rash and negligent manner and when it reached village Ghaluwal, Kuldip Chand and Gurdip Singh who were travelling in the bus fell down from the door of the bus which opened suddenly due to rash and negligent driving. The matter was reported to the police and an FIR No.585/99 was

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Whether the reporters of the local papers may be allowed to see the Judgment? Yes

registered at Police Station Una on 11.11.1999. The injured were referred for medical treatment. The bus was got examined mechanically. The challan was filed in the Court.The notice of accusation was put to the accused under Sections 279, 336, 337 and 338 IPC to which they pleaded not guilty. In their statements under Section 313 Cr.P.C. the accused pleaded their innocence. They did not lead any defence evidence. The learned Chief Judicial Magistrate acquitted the accused on 9.4.2007, hence this petition for leave to appeal.

3. PW-2 Gurdip Singh has stated that on 11.11.1999 he was travelling in bus No.HP-19-1453 and was standing in front door of the bus. At place Jaijon Mour a bus came from opposite side and driver of bus No.HP-19-1453 applied brakes immediately, as a result of which, the door of the bus opened suddenly and he along with Guldip Singh fell down from the bus and sustained injuries . In cross-examination he has stated that door of the bus opens towards inside and not out side. It has been admitted that in case the driver of bus No.HP-19-1453 had not applied the brakes, the bus would have collided with the bus coming from the opposite side. PW-3 Kuldip Chand has supported the statement of PW-2 Gurdip Singh. In cross-examination PW-2 has stated that he gave the statement to the police that accused was driving the bus with very high speed but on confrontation this was not so recorded in his statement under section 161 Cr.P.C. The learned Chief Judicial Magistrate has recorded a specific finding that this witness has made improvement in his statement on oath. PW-4 Dev Swaroop has stated that the

door was open therefore, Gurdip and Kuldip Chand fell down from the bus. The learned Chief Judicial Magistrate has noticed contradictions in the statements of PW-2 Gurdip Singh, PW-3, Kuldip Chand and PW-4 Dev Swaroop. The learned Chief Judicial Magistrate has taken a possible view from the material on record and rightly acquitted the accused. Hence, leave to appeal is rejected.

(Kuldip Singh)
Judge.

August 30, 2007
(sks)